ANTI-HARASSMENT POLICY REVIEW

RECOMMENDATIONS

Saskatchewan Public Service Commission
April 30, 2003

SUMMARY OF FINDINGS/RECOMMENDATIONS

In summary, it is the recommendation of the Review Team that:

1. The policy statement set out in the Anti-Harassment Policy be strengthened to make clear there is zero tolerance for harassment in the workplace of the public service.

   This stronger policy statement be given a more prominent place in the policy document and all relevant literature; ie., add a new first paragraph as follows:

   > "The government has a zero tolerance policy towards harassment in the workplace. No reported incident of harassment will go unaddressed. Allegations of harassment will be taken most seriously, and if substantiated, will be addressed through appropriate corrective action which reinforces the policy and ensures the harassment does not continue."

2. a) Disciplinary decisions respecting all matters, including the most serious cases of harassment, remain the responsibility of the Permanent Head.

   In making the decision to discipline or dismiss an employee, in the most serious cases of harassment, the Permanent Head will seek the input of a panel of peers. The Permanent Head will prepare a thorough written report on the case including not only the investigator's report, should there be one, but also all opinions and advice received, interviews conducted, additional information considered, precedents used, etc. This report would be used when consulting with the panel and may be used in informing the Minister responsible.

   The Public Service Commission finalize their work on the automation of case records to provide Permanent Heads easier access to information about public service cases with similar circumstances including the sanctions imposed.

   A manager's checklist be developed to assist in dealing with harassment issues. The checklist would identify key actions/considerations at all stages throughout the process beginning with the first indication/allegations of harassment and carrying through to the disposition of any disciplinary challenges and necessary restorative processes in the affected workplace.

   b) Consistent with current practice and, in keeping with the Minister's general responsibility for oversight of departmental activities, in serious cases of misconduct, including cases of harassment, the Minister will be informed. In the most serious harassment cases, the Minister Responsible for the Public Service Commission will also be briefed.

c) The Public Service Commission prepare periodic reports for their Minister respecting the administration of this policy, including such information as the number and nature of harassment complaints filed, gender or other analysis where appropriate, how complaints were addressed, whether harassment was found and discipline imposed.

3. The Anti-Harassment and Corrective Discipline Policies be amended to reflect that, in the most serious cases of harassment, dismissal will be the employer's response in the absence of significant factors that, in the opinion of the Permanent Head, dictate otherwise; eg., cases involving: serious abuse of authority; hate literature, sexual assault, or other criminal behaviour associated with harassment.

4. a) The anti-harassment process and procedures be modified such that in cases where, as a result of an investigation, the investigator has concluded that harassment has occurred:
   - the Permanent Head, in his/her deliberations respecting appropriate disciplinary and restorative action to be taken, may consult with the complainant(s) to bring a fuller understanding of the impact of the respondent's behaviour on the complainant(s) and the workplace;
   - the Permanent Head shall share with the complainant(s), on a confidential basis, the disciplinary penalty ultimately imposed on the respondent, relevant considerations and rationale for the decision; and
   - the Permanent Head may share, on a confidential basis with other members of the immediate workplace, information respecting the nature of disciplinary action taken.

   b) A decision on the issue of public disclosure of disciplinary action taken, in the most serious cases of harassment, be deferred pending the completion of a more thorough analysis of the implications of this type of change.

5. Departments be directed to enhance employee awareness of harassment/respectfulness issues through, eg., regular reminders in employee orientation sessions, staff meetings, probationary and other performance review discussions and periodic circulation of relevant topical materials.

   PSC develop additional support materials to assist departments in communicating the Anti-Harassment Policy to employees, coincident with the implementation of changes that result from this review.

   Departments include this initiative as part of their annual human resource plans.

6. The anti-harassment procedures be amended to be instructive to supervisors/managers such that:

   If they are made aware of a serious harassment circumstance which they believe may have involved criminal behaviour that they seek advice of Saskatchewan Justice as to whether the matter has crossed the line into criminal action.

   At any time in the process of handling such a complaint, and particularly if the matter is investigated and substantiated, the complainant(s) must be advised that he/she has the opportunity to advance a criminal complaint and offered the employer's support to do so. If the employee does not wish to do so, those wishes should be respected except where there is an overriding concern. Managers who believe a particular matter should be raised with the police, despite the complainant(s)' wishes, must raise this matter with Saskatchewan Justice.

7. a) Investigative Process
   That the Public Service Commission review (jointly with the SGEU, as necessary) means to improve the investigative process including:
   - the maintenance of a pool of skilled and trained investigators available to promptly conduct thorough and confidential investigations into complex harassment issues;
   - the established guidelines for investigator's actions;
   - the expectations for comprehensive reports with detail on the specifics of the findings (including which complaints were founded and which were not); and
   - the process for the investigator to alert the employer where the investigation suggests policy involvement may be appropriate.

   b) Regular Reviews of the Anti-Harassment Policy
   As the law and best practices surrounding harassment are evolutionary, periodic reviews of the policy (not less than every five years) should be conducted to ensure that the policy remains current, valid and meaningful.

BACKGROUND

A recent case of serious sexual harassment in the workplace led certain government members to review the case; concluding that in their view, the disciplinary action taken was not sufficient to appropriately reflect government's zero tolerance towards harassment in the workplace.

In response to this case, the Minister Responsible for the Public Service Commission directed that the Public Service Commission review specific elements of the public service Anti-Harassment Policy, with a view to ensuring the policy and remedies are in step with government's zero tolerance towards harassment, and report their findings to her by April 30, 2003.

RELEVANT LEGISLATION AND POLICIES

1. *The Public Service Act, 1998* and *The Public Service Regulations, 1999*
   - provides the legislative framework for the conduct of human resource management in the public service, establishing roles and authorities of key bodies and individuals.

2. *The Occupational Health and Safety Act, 1993* and the *Occupational Health and Safety Regulations, 1996*
   - requires that all employers ensure, insofar as is reasonably practicable, that their employees are not exposed to harassment at the place of employment;
   - requires that all employers, in consultation with their health and safety committee, develop a policy to prevent harassment.

3. *The Freedom of Information and Protection of Privacy Act* and the *Freedom of Information and Protection of Privacy Regulations*
   - provides legislative direction prescribing the balance between protection of the privacy of personal information and the right of public access to information/records maintained by government institutions.

4. The Public Service Anti-Harassment Policy (PS 807), Last Revised November 2000
   - provides policy direction and procedures respecting harassment in the workplace of the public service, as required under Occupational Health and Safety Regulations;
   - specific elements of this policy are the subject of this review;
   - the first reference to sexual harassment in the PSC/SGEU Collective Bargaining Agreement is outlined in the 1982-84 agreement, in a letter of understanding dated February 1, 1983 providing for the joint investigation of all instances of alleged sexual harassment in the workplace;
   - the public service's first formal policy on sexual harassment was issued in February 1987; this policy was revised to be the Racial, Ethnic and Gender Harassment Policy in September 1994; and was last updated to its current form in November 2000.

5. The Public Service Corrective Discipline Policy (PS 803), Issued February 1994
   - provides policy direction and guidelines to public service employees and managers designed to correct unacceptable behaviour that adversely affected job performance.

CONDUCT OF THE REVIEW

To conduct this review, a four-person review team was established.

To assist in their deliberations and inform their views, the Review Team conducted interjurisdictional research respecting Anti-Harassment Policy provisions and consulted with a variety of individuals and groups within the public service.

The Review Team notes that, due to the Public Service Commissioners' role of representing the public interest in overseeing the conduct of human resource management practice in the public service, they would normally be consulted before the findings and recommendations of this review are completed. As a result, and pursuant to Section 11(1) of *The Public Service Act, 1998,* any policy changes made as a result of this report will be subject to future review by the Public Service Commissioners.

CONSIDERATIONS IN THE REVIEW

During the course of this review, the Review Team's analysis and recommendations were guided by the following considerations:

Separation of Roles – that the separation of roles between the professional public service responsible for administrative and personnel matters and that of elected officials responsible for representing the public interest in setting policy direction for government is to be maintained.

Privacy and Accountability – that an individual's right to privacy with respect to employment discipline must be balanced against the need for accountability in the disciplinary process and perhaps, in certain cases, the need for public accountability.

Confidentiality – that any disclosure of information in harassment cases is in keeping with the requirements for confidentiality provided for under the Occupational Health and Safety Regulations and does not have the effect of dissuading employees from coming forward to identify issues of concern.

Zero Tolerance – that the government's commitment that harassment in the workplace will not be tolerated must be made clear.

Restoration – that a fundamental principle of the Anti-Harassment Policy is to ensure that when harassment is found, the objective is to restore the workplace to an environment of respectfulness, free of harassment.

Fairness – that any change to the Anti-Harassment Policy must still result in a policy and process which is, and is seen to be, fair to all those involved.

TERMS OF REFERENCE FOR THE REVIEW

Objective:
To review specific elements of the public service Anti-Harassment Policy as directed by the Minister Responsible for the Public Service Commission, with a view to ensuring the policy and remedies are in step with government's zero tolerance towards harassment in the workplace.

Issues:

1. Clarify government's "zero tolerance policy" towards harassment in the workplace.

2. Examine how the process for dealing with harassment issues might be modified to allow the Minister(s) sufficient oversight so as to ensure the policy is working properly.
   a) How can the decision process for discipline in the most serious harassment cases be strengthened? What are the appropriate roles for Ministers and Permanent Heads?
   b) Should the disciplinary process respecting serious harassment cases require the briefing of the departmental Minister; and if so, when and in what level of detail?
   c) Are there other means of reporting to the Minister Responsible for the Public Service Commission regarding experience in the application of the Anti-Harassment Policy that would assist in ensuring the policy is working properly?

3. Determine if the guidelines for applying discipline, in the most serious cases of harassment, are sufficiently clear and strong.

4. Examine the balance between protecting the privacy of individuals and disclosing disciplinary action taken with a view to increasing transparency and accountability.
   a) Should complainant(s) know what disciplinary action has been taken as a result of their complaints?
   b) Are there instances where the public interest in disclosing disciplinary action (other than termination) overrides an individual's right to privacy?

5. Examine the policy to ensure it appropriately addresses the obligation of all employees to maintain a harassment-free workplace.

6. Determine circumstances in which investigations should be turned over to the police.

7. Other issues as determined appropriate.

REVIEW FINDINGS, ANALYSIS AND RECOMMENDATIONS

1. *Clarify government's "zero tolerance policy" towards harassment in the workplace.*

During the recent public debate of harassment issues government often referred to its "zero tolerance policy" towards harassment. While the current intent of the policy is zero tolerance, making this explicit and increasing the zero tolerance statement's prominence in the policy document will serve to reinforce and clarify government's commitment.

It should be noted that "zero tolerance" does not mean that dismissal will be imposed in all cases of violation of the policy. Rather, it means that the employer will not accept harassment in the workplace, will investigate any complaints and act upon all situations which are substantiated.

It is, therefore, recommended that:

The policy statement set out in the Anti-Harassment Policy be strengthened to make clear there is zero tolerance for harassment in the workplace of the public service.

This stronger policy statement be given a more prominent place in the policy document and all relevant literature; ie., add a new first paragraph as follows:

"The government has a zero tolerance policy towards harassment in the workplace. No reported incident of harassment will go unaddressed. Allegations of harassment will be taken most seriously and, if substantiated, will be addressed through appropriate corrective action which reinforces the policy and ensures the harassment does not continue."

2. *Examine how the process for dealing with harassment issues might be modified to allow the Minister(s) sufficient oversight so as to ensure the policy is working properly.*

a) *How can the decision process for discipline in the most serious harassment cases be strengthened? What are the appropriate roles for Ministers and Permanent Heads?*

The Public Service Act, 1998 sets out at Sections 27-30 that, in cases of misconduct (including harassment) or in other circumstances when it is determined in the interest of the public service to do so, it is the responsibility of the Permanent Head to determine and impose appropriate disciplinary sanctions up to and including dismissal. This is consistent with the practices of virtually all other provincial jurisdictions (see attached Appendix 1). This approach is founded on the principle of the separation of roles between a professional public service responsible for administrative and personnel

matters and that of elected officials responsible for representing the public interest in setting policy direction for government.

The Public Service Act reinforces and defines this principle of separation of roles as it relates to personnel (human resource) matters within the public service. First, in Section 3, it describes as the primary purpose of the Act "to maintain an independent and professional public service". It goes on to continue the operation of the Public Service Commission, as a separate entity with responsibility to represent the public interest in overseeing the conduct of human resource management practices within the public service. Finally, the Act provides specific roles for the Minister Responsible for the Public Service Commission regarding collective bargaining and tabling an annual report respecting the work of the Commission. In addition, the Minister has general responsibility respecting Public Service Commission activities assigned pursuant to the provisions of *The Government Organization Act*. This includes: responsibility in the Legislative Assembly for answering questions with respect to personnel transactions and other duties carried out by the Chair of the Public Service Commission; giving direction to the Chair with respect to financial and budget matters; and discussing, in a general way, the personnel policies and practices of the Commission. These provisions serve to ensure the maintenance of an independent public service and the principle of separation between elected officials and the professional public service.

To consider a role for Ministers in making disciplinary decisions, even in only the most serious incidents of harassment, would violate this principle, establish a difficult precedent and require legislative amendment. Therefore, further consideration of a change of this nature is not recommended.

An additional consideration is whether it is appropriate to replace the decision-making authority of the Permanent Head with some alternative decision-making mechanism or approval process at the bureaucratic level, for matters of dismissal for misconduct. The Permanent Head exercises a wide range of authorities and accountabilities required to manage a department or agency. This includes significant fiscal and program authority in addition to the authority for managing human resources within the department.

The specific authority to dismiss an employee for misconduct must be seen in light of this broader range of authorities. The rationale for removing only this authority is unclear. While dismissing an employee for misconduct or other reasons is a serious act, it is questionable whether it is more serious than the many other activities which fall within the Permanent Head's authority. There does not appear to be sufficient rationale to consider removal of this specific authority unless it is considered in a broader review based in more general concerns about Permanent Heads' authority.

It is important to note that through the Deputy Minister to the Premier, Permanent Heads are ultimately accountable for their decisions to the Premier. The Premier has the authority to review or question the actions of a Permanent Head and can request an accounting of the Permanent Head's decisions. If not satisfied the Premier can take

appropriate corrective action in relation to the Permanent Head, to ensure that decisions made reflect government policy.

To assist Permanent Heads, the Review Team is recommending additional supports throughout the harassment process.

Cases involving serious harassment in the workplace are often difficult and complex. They should be addressed as quickly as possible – however they must also be investigated in a manner that provides fairness and due process to all those involved. The Permanent Head must find all relevant facts, draw conclusions and where warranted, impose discipline appropriate to the circumstances. The determination of the appropriate discipline involves the review of a number of factors such as the severity of the infraction, the respondent's employment history, and the respondent's reaction to the incident. The Permanent Head must then consider the case law to determine the range of discipline appropriate.

Compounding the issue is the fact that serious sexual harassment cases are rare and most managers have little experience with handling them.

For the reasons noted above and because implications of serious cases may extend beyond the specific workplace or affected employee, the first additional support would be to provide Permanent Heads with a panel of peers from which to seek advice in difficult situations. Accountability and procedural practice would be improved and consistency could be strengthened if the Permanent Head's assessment respecting discipline/dismissal in the most serious cases of harassment, was aided by discussion with a panel of peers before being finalized.

It is our recommendation that this peer advisory panel consist of a group of Deputy Ministers including the Chair of the Public Service Commission, the Deputy Minister of Justice (or the head of Civil Law) and one to two other Deputy Ministers. To help ensure consistency, this panel should remain as constant as possible.

To ensure the panel has complete information, the Permanent Head would present to them a thorough written report on the matter including the investigator's report, minutes of any interviews, other pertinent evidence (eg., gender or other expert analysis), the opinions of advisors (eg., Justice and PSC staff), identification of all relevant considerations (aggravating and mitigating factors), precedents used, etc.

The panel's advice will be provided to the Permanent Head and will be taken into consideration in making his/her final decision.

A second support would be provided through the finalization of the Public Service Commission's work on automating case records to provide Permanent Heads easier access to information about public service cases with similar circumstances including the sanctions imposed.

A third support would be a checklist to assist managers in dealing with harassment issues. The checklist would augment the processes outlined in the policy. It would identify key actions/considerations at all stages of the process - beginning with the first indication/allegations of harassment and carrying through to the disposition of any disciplinary challenges and necessary restorative processes in the affected workplace.

It is, therefore, recommended that:

Disciplinary decisions respecting all matters, including the most serious cases of harassment, remain the responsibility of the Permanent Head.

In making the decision to discipline or dismiss an employee, in the most serious cases of harassment, the Permanent Head will seek the input of a panel of peers. The Permanent Head will prepare a thorough written report on the case including not only the investigator's report, should there be one, but also all opinions and advice received, interviews conducted, additional information considered, precedents used, etc. This report would be used when consulting with the panel and may be used in informing the Minister responsible.

The Public Service Commission finalize their work on the automation of case records to provide Permanent Heads easier access to information about public service cases with similar circumstances including the sanctions imposed.

A manager's checklist be developed to assist in dealing with harassment issues. The checklist would identify key actions/considerations at all stages throughout the process beginning with the first indication/allegations of harassment and carrying through to the disposition of any disciplinary challenges and necessary restorative processes in the affected workplace.

b) Should the disciplinary process respecting serious harassment cases require the briefing of the departmental Minister; and if so, when and in what level of detail?

The day-to-day management of human resource issues is, as a general rule, private and internal to the parties directly involved in the employment relationship. However, in keeping with the Minister's general responsibility for oversight of departmental activities, it is appropriate that the Minister responsible be informed of all significant matters relating to the operation of the department, including major human resource issues. The precise timing of the briefing and the level of detail provided would be determined on a case-by-case basis by the Permanent Head.

This recommendation is not intended to compromise the authority of the Permanent Head to make discipline decisions or the principle of separation between the professional public service and the elected official. Rather it is in recognition of the role of elected

officials for general oversight of department activities and that significant employment matters impact upon departmental activities.

In summary, it is recommended that:

> *Consistent with current practice and, in keeping with the Minister's general responsibility for oversight of departmental activities, in serious cases of misconduct, including cases of harassment, the Minister will be informed. In the most serious harassment cases, the Minister Responsible for the Public Service Commission will also be briefed.*

c) Are there other means of reporting to the Minister Responsible for the Public Service Commission regarding experience in the application of the Anti-Harassment Policy that would assist in ensuring the policy is working properly?

It is recognized that in calling for this review, the Minister Responsible for the Public Service Commission had concerns as to whether the policy was working as intended.

Recommendations in Sections 2 a) and 3 of this report provide additional support to Permanent Heads in making disciplinary decisions in the most serious harassment cases, and clarify the guidelines respecting the severity of disciplinary penalties in these cases. These additional actions should serve to provide Ministers additional confidence that the policy and its application properly reflect the government's intent.

In addition, to provide the Minister Responsible for the Public Service Commission with improved oversight as to whether the policy is being applied in a manner consistent with government's commitment to zero tolerance, *it is recommended that:*

> *The Public Service Commission prepare periodic reports for their Minister respecting the administration of this policy, including such information as the number and nature of harassment complaints filed, gender or other analysis where appropriate, how complaints were addressed, whether harassment was found and discipline imposed.*

3. *Determine if the guidelines for applying discipline, in the most serious cases of harassment, are sufficiently clear and strong.*

In cases of harassment, as with other incidents of misconduct, the Corrective Discipline Policy guides any discipline that occurs. Because each situation is different, the policy contemplates using criteria and guidelines to decide discipline on a case-by-case basis. This approach has been generally successful in addressing discipline problems within a workplace and restoring a harassment-free workplace.

However, the government holds the view that there may be instances where the breach and/or its impact is so serious that no discipline other than dismissal can serve to restore the workplace and to demonstrate commitment to a harassment-free workplace.

There is a need to ensure that all employees understand this strength of commitment to a harassment-free workplace and understand that, while restoration is the goal, there are instances, in the most serious cases, where there may be no remedial options available to the employer other than dismissal of the respondent.

The determination of appropriate discipline will always require the application of judgement, considering the facts of the case, investigator's findings, claimant(s) impact statements, other aggravating/mitigating factors, labour relations and legal advice (including analysis of internal and external precedents). To assist in the application of this judgement and to reinforce the strength of government's commitment to maintain a harassment-free workplace, *it is recommended that:*

> *The Anti-Harassment and Corrective Discipline Policies be amended to reflect that, in the most serious cases of harassment, dismissal will be the employer's response in the absence of significant factors that, in the opinion of the Permanent Head, dictate otherwise; eg., cases involving: serious abuse of authority; hate literature, sexual assault, or other criminal behaviour associated with harassment.*

4. ***Examine the balance between protecting the privacy of individuals and disclosing disciplinary action taken with a view to increasing transparency and accountability.***

   a) ***Should complainant(s) know what disciplinary action has been taken as a result of their complaints?***

   One of the most common issues raised in the process of this review has been concern with the apparent secrecy associated with the handling of harassment cases. It is the view of many that the policy/process should be opened in some way to provide greater transparency and accountability. It was also felt that if the process provided a greater sense of involvement for those directly engaged in the case, it would achieve a greater sense of fairness.

   The confidentiality requirements associated with these processes are intended to protect the rights of all parties involved and, more generally, to foster a work environment free of harassment; ie., one in which all employees feel comfortable in coming forward and addressing concerns. The current confidentiality/privacy requirements are set out in:

   - The Occupational Health and Safety Regulations:
     36(1) An employer, in consultation with the committee, shall develop a policy in writing to prevent harassment that includes:

(f) a statement that the employer will not disclose the name of a complainant or an alleged harasser or the circumstances related to the complaint to any person except where disclosure is:
   (i) necessary for the purposes of investigating the complaint or taking corrective action with respect to the complaint; or
   (ii) required by law.

- The Freedom of Information Act defines one's employment record as personal information; and as such, it must not be publicly disclosed without the consent of the person. It is the interpretation of this legislation that discipline is part of one's employment record; and therefore, is protected under the provision.

- The Public Service Anti-Harassment Policy
  In addition to the requirements of the Occupational Health and Safety Regulations, this policy provides that all information relating to verbal and written complaints shall be kept strictly confidential.

  The procedures section of the policy document goes on to reinforce this requirement:
  - "The investigation is limited to only those individuals who must be contacted to fulfill the employer's legal duty to investigate, provide a safe workplace and resolve the situation. Those involved in the investigation are prohibited from discussing the harassment complaint outside the official restorative or investigative process."
  - "Confidentiality means, in its simplest form, that no one talks about the harassment complaint outside the official restorative or investigative process."
  - "Breaches of confidentiality may result in the application of the Corrective Discipline Policy."

One opportunity to provide a greater degree of involvement of the complainant(s) is at the stage in the process following receipt of the investigator's report. At this stage, the Permanent Head is deliberating as to whether harassment has occurred, and if so, the appropriate restorative and disciplinary action to be taken. Before determining the action to be taken the Permanent Head could consult with the complainant(s) as to the effect the harassment had upon the complainant(s). These consultations may take the form of an impact statement, not dissimilar to that used in the criminal justice system. This would provide the complainant(s) an opportunity to bring a fuller understanding to the Permanent Head regarding the consequence of the respondent's behaviour on the complainant(s) and the workplace. In circumstances where the Permanent Head chooses to consult with the complainant(s) in this way, the complainant(s) should first be advised that the information received would be shared with the respondent to permit the opportunity to respond.

It is believed that the information gathered through such consultation would be of value to the Permanent Head in making the final determination as to the appropriate discipline and/or other remedial action, in communicating with the respondent respecting the consequence of his/her actions and the reason for the discipline imposed, and in

determining appropriate steps for restoration of the workplace. Finally, through this increased involvement, the complainant(s) may feel the process is more inclusive and fair.

Another opportunity to further open this process is at the stage when disciplinary action is taken. In the current practice, discipline is a matter kept private between that affected employee and their manager. It is the view of the Review Team that this practice needs to be expanded in harassment cases, where there is, in all cases, a key additional party to the process – the complainant(s).

The process could be amended to permit the Permanent Head to communicate with the complainant(s) as to the disciplinary action taken. This might also include sharing some of the considerations/rationale involved in coming to this decision. It is believed that a discussion of this nature would allow the complainant(s) a better understanding that there has been a reasoned consequence resulting from the finding of harassment. This may also assist them in achieving a sense of closure.

The process could be further opened to allow the Permanent Head, on a case-by-base basis, to communicate with others in the immediate workplace in circumstances where, in the view of the Permanent Head, this is determined necessary or appropriate. This could prove useful in the most serious cases in assisting the workplace to return to normal operations.

In considering the propriety of opening the process in these ways, it is clear that disciplinary action is a part of the employee's employment record and is, therefore, personal information. While the principles of confidentiality and privacy remain important, they must be balanced against the principles of restoration and fairness in a harassment situation. It is the Review Team's conclusion that there are times when disclosure of the discipline taken may be the appropriate action.

It is, therefore, recommended that:

The anti-harassment process and procedures be modified such that in cases where, as a result of an investigation, the investigator has concluded that harassment has occurred:

- *the Permanent Head, in his/her deliberations respecting appropriate disciplinary and restorative action to be taken, may consult with the complainant(s) to bring a fuller understanding of the impact of the respondent's behaviour on the complainant(s) and the workplace;*
- *the Permanent Head shall share with the complainant(s), on a confidential basis, the disciplinary penalty ultimately imposed on the respondent, relevant considerations and rationale for the decision; and*
- *the Permanent Head may share, on a confidential basis with other members of the immediate workplace, information respecting the nature of disciplinary action taken.*

b) Are there instances where the public interest in disclosing disciplinary action (other than termination) overrides an individual's right to privacy?

The employment history of an employee, including disciplinary action taken against an employee, is the personal information of that employee. Such information is, by and large, required to be kept confidential by the government under *The Freedom of Information and Protection of Privacy Act.*

The policy behind this requirement is relatively straight forward – employment issues are matters between the employer and employee and should remain in that forum. Government employees should have a reasonable expectation of privacy in relation to employment matters, much like all other employees.

However, the government has recognized there are some differences that must be accounted for. The government is accountable to the public – therefore matters that relate to employment and the accountability of the government must be addressed. Government's primary public accountability for employees is financial, therefore the Act recognized that information respecting an employees' remuneration and job duties is not protected.

Similarly, it was determined that the government should be accountable for payments for persons who are terminated and no longer employed. This led to an amendment to regulations under *the Freedom of Information and Protection of Privacy Act* to authorize disclosure of matters that lead to termination of an employee, including severance payments made to the employee. Government must provide financial severance details to the public. Equally, it is able to disclose reasons for the termination.

These exclusions to the rules of privacy are relatively narrow and continue to protect the privacy of the majority of employment information of government employees. However, recent situations have come to light which question whether this is adequate in meeting government's accountability requirements.

The vast majority of disciplinary action has little to do with public issues. Employment matters that do not have public importance should remain private as there is no justification to remove the expectation of personal privacy. However, the government is a public enterprise and is accountable to the public for its actions. Where discipline is related to a matter upon which the government is being held publicly accountable, and which requires a response to address public confidence, should disclosure be permitted? Because a matter has become public, does that justify making an employee's personnel record a matter of public record? If so, how much information should be permitted to be disclosed? How will such disclosure fit with the confidentiality requirements of The Occupational Health and Safety Regulations?

There are several questions of law and policy involved. A decision to permit public disclosure will require regulation changes and will impact upon the expectations of privacy for government employees. To strike the proper balance between privacy and

public disclosure, due consideration should be given to the many competing interests involved. Further, consideration should be given to the approaches used in other jurisdictions to respond to such issues.

Accordingly, it is recommended that:

> *A decision on the issue of public disclosure of disciplinary action taken, in the most serious cases of harassment, be deferred pending the completion of a more thorough analysis of the implications of this type of change.*

5. ***Examine the policy to ensure it appropriately addresses the obligation of all employees to maintain a harassment-free workplace.***

Upon review, the Review Team has satisfied itself that the Anti-Harassment Policy is clear and directive respecting the obligation of all employees to maintain a harassment-free workplace, to identify and take seriously any breaches and to take appropriate remedial action; eg., see Policy – Roles and Responsibilities section; Appendix 2 – What To Do If You Observe Harassment In The Workplace, etc.

However, some have expressed concern as to whether there is a sufficient culture of respectfulness in the workplace to ensure that all employees remain sensitive to these issues and their obligations in this regard on a day-to-day basis. It is believed this issue is best addressed through initiatives designed to enhance awareness. Enhanced awareness is best accomplished through regular reminders built into ongoing departmental operations; eg., employee orientation sessions, staff meetings, probationary review discussions, annual work planning/performance review discussion and periodic circulation of relevant/topical material.

If a specific workplace has harassment issues identified, a more direct intervention like training might be considered as part of a remedial strategy. However, mandatory formal training sessions for all staff is not recommended - we perceive a one-time approach as a less effective means of encouraging a change in culture. The public service had experience with this type of approach on this topic in the mid-1990s that was poorly received and ultimately abandoned.

Finally, the Review Team notes that while employees' obligations and the policy are generally clear and appropriate today, the law and best practices surrounding harassment are evolving. To ensure that the policy is current and meaningful, periodic reviews of its content are essential.

It is, therefore, recommended that:

> *Departments be directed to enhance employee awareness of harassment/respectfulness issues through, eg., regular reminders in employee orientation sessions, staff meetings, probationary and other performance review discussions and periodic circulation of relevant topical materials.*

PSC develop additional support materials to assist departments in communicating the Anti-Harassment Policy to employees, coincident with the implementation of changes that result from this review.

Departments include this initiative as part of their annual human resource plans.

6. ***Determine circumstances in which investigations should be turned over to the police.***

The majority of harassment allegations will not involve conduct that may be criminal. However, in exceptional cases (primarily in situations involving overt sexual harassment or physical assault), the conduct of the alleged harassers may cross over the line into criminal behaviour.

These are difficult situations. The most appropriate response for managers is best determined on a case-by-case basis, keeping in mind the following:

- The complainant(s) has the full ability, at any point in time, to take a complaint through another process, whether criminal, occupational health and safety or human rights. The complainant(s) should be informed of his/her ability to pursue these avenues and offered support and assistance from the employer to do so if the complainant(s) wishes. This support should be offered periodically, not just on one occasion. Any questions managers may have respecting whether a matter has crossed the line into criminal action should be discussed with the Civil Law Division of Saskatchewan Justice.

- Complainant(s)' wishes about not going to the police should be respected. It is possible that a matter will be so concerning that contemplation of informing the police will need to be considered, notwithstanding the employee's wishes. These situations are very rare. Referring a matter to the police could have significant impacts upon the complainant(s) and consultation with Saskatchewan Justice must occur before such a matter is referred.

It is, therefore, recommended that:

The anti-harassment procedures be amended to be instructive to supervisors/managers such that:

If they are made aware of a serious harassment circumstance which they believe may have involved criminal behaviour that they seek advice of Saskatchewan Justice as to whether the matter has crossed the line into criminal action.

At any time in the process of handling such a complaint, and particularly if the matter is investigated and substantiated, the complainant(s) must be advised that he/she has the opportunity to advance a criminal complaint and offered the employer's support to do so. If the employee does not wish to do so, those wishes should be respected except where there is an overriding concern. Managers who believe a particular matter should be

raised with the police, despite the complainant(s)' wishes, must first raise this matter with Saskatchewan Justice.

7. ***Other issues as determined appropriate.***

During the course of the review, the Review Team identified a number of other related issues on which the following recommendations are offered:

a) *Investigative Process*
That the Public Service Commission review (jointly with the SGEU, as necessary) means to improve the investigative process including:
- *the maintenance of a pool of skilled and trained investigators available to promptly conduct thorough and confidential investigations into complex harassment issues;*
- *the established guidelines for investigator's actions;*
- *the expectations for comprehensive reports with detail on the specifics of the findings (including which complaints were founded and which were not); and*
- *the process for the investigator to alert the employer where the investigation suggests police involvement may be appropriate.*

b) *Regular Reviews of the Anti-Harassment Policy*
As the law and best practices surrounding harassment are evolutionary, periodic reviews of the policy (not less than every five years) should be conducted to ensure that the policy remains current, valid and meaningful.

IMPLEMENTATION

Implementation of the recommendations will be undertaken directly upon conclusion of this review process and receipt of necessary approvals with the exception of recommendation #4 b) which has been deferred for further consideration. In the case of several recommendations, development time is required prior to implementation.

In accordance with the Occupational Health and Safety Regulations, implementation of policy changes must be done in consultation with Occupational Health Committees in the workplace.

APPENDIX 1

AUTHORITY TO DISMISS EMPLOYEES

PROVINCIAL SUMMARY

Authorities are as per the provincial Public Service Act or equivalent unless otherwise indicated.

Province	Permanent Head / DM	Assistant or Deputy Head	Other
Alberta	- permanent employees	- contract employees only	Executive Directors - wage employees (labour service equivalent).
B.C.*	X		PSERC Commissioner can also fire employees or delegate the authority to an ADM.
Manitoba	X		Authority can be delegated to ADMs or Executive Directors, but very rare.
New Brunswick	X		
Newfoundland	X (for redundancy purposes/job abolishment)		Statutory authority lies with the Lt. Governor in Council, who can delegate authority to department heads. With respect to termination for cause, DMs make the decision subject to O/C approval.
Nova Scotia (Human Resource Policy Manual)	X		Others who the Government in Council has designated as having the status of a deputy head (heads of boards, commissions, agencies).
P.E.I.	X	X (if acting as deputy head)	
Ontario	X		May be delegated to others by the DMs - it is a Ministry by Ministry decision.
Yukon	X		

*based on current legislation - a new Act has been developed but not proclaimed.

APPENDIX 2

Summary of the Current Public Service Anti-Harassment Policy

Background

The current anti-harassment policy for the Saskatchewan public service was developed and approved almost three years ago. In October 2000, it was distributed to departments to be shared with all employees, and it was also posted on the Public Service Commission's web site, http://www.gov.sk.ca/psc/hr_manual/ps807.htm.

This policy replaced the previous anti-harassment policy and expanded the grounds for harassment. In addition to sexual, racial or religious grounds which had been in effect for many years, it now includes creed, colour, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry, and place of origin. It also defines harassment as any objectionable or offensive behaviour that is known or reasonably ought to be known to be unwelcome, based upon one or more of the prohibited grounds in:

- *The Saskatchewan Human Rights Code*; or
- *The Occupational Health and Safety Act, 1993*; or
- any additional grounds listed in the current Collective Bargaining Agreements with SGEU and CUPE in circumstances relating to in-scope employees. (This would include union affiliation or activities.)

The intent of the policy is supporting, and if necessary restoring, a harassment-free workplace. The policy is not intended to limit or constrain the employer's right to manage the workplace.

Policy Components

Key aspects of the policy include:

1. Policy statements;
2. Roles and responsibilities of the employer and employees;
3. Definitions;
4. Provisions for confidentiality;
5. Where to go for information or help;
6. Information for employees who are accused of harassment;
7. Information for employees who witness harassment; and
8. Processes and procedures for addressing harassment in the workplace.

1. Policy Statements

The anti-harassment policy, which applies to all workplaces and all employees of executive government, contains several strong statements against harassment. These include:

- "Harassment in the workplace will not be tolerated. The abuse of one's authority or position to intimidate, coerce or harass is forbidden. Harassment constitutes a disciplinary infraction that shall be dealt with through the appropriate measures."
- "As an employer, the Government of Saskatchewan values the dignity of all employees and is committed to providing a respectful workplace, one that is harassment free and in which all individuals are treated with respect. The expectation is that managers,

supervisors and employees will create and maintain a work environment that is respectful of all persons in it."

2. Roles and responsibilities of the employer and employees

The current policy clearly outlines the responsibilities of the employer and employees with respect to harassment issues:

- "Harassment is a concern for everyone and maintaining a harassment free workplace is everyone's responsibility."
- "The employer has a responsibility and a legal obligation to ensure employees are not exposed to harassment in the workplace and for the implementation of this policy. Managers are responsible for ensuring a harassment free workplace and adherence to the policy. This includes taking appropriate preventive or corrective action and stopping any harassment of which they are aware. Managers should ensure that all employees' rights are protected and should support employees in the conflict resolution process.
- "Employees (in and out-of-scope) have a responsibility to create and support a workplace that is free of harassment by complying with this policy and by ensuring their behavior meets acceptable standards. Employees must refrain from discriminatory or harassing behaviour. Employees who feel they have been harassed should make their objections known to the alleged harasser or other appropriate person and document incidents of harassment. Employees witnessing harassment are encouraged to take action to bring the incident to the attention of an appropriate official."

3. Definitions

The policy defines discrimination and harassment, and provides examples of harassment, which may include, but is not limited to:

- unwelcome remarks, jokes, innuendoes or taunts causing embarrassment or offence;
- displaying objectionable materials, graffiti or pictures;
- insulting gestures, jokes, disparaging written materials;
- unwelcome sexual advances, propositions or inquiries and/or comments about a person's sex life;
- unwanted contact or attention (may be one time only or persistent);
- inappropriate touching;
- shunning and ostracizing
- threats, bullying, coercion, isolation;
- actual or threatened physical assault;
- verbal assault;
- malicious gestures or actions; or
- stalking.

4. **Provisions for confidentiality**

The policy follows provisions of the *Occupational Health and Safety Regulations, 1996,* and *Freedom of Information Act,* and states that:

- "The employer will not disclose the name of a complainant or an alleged harasser or the circumstances related to the complaint to any person except where disclosure is necessary for the purposes of investigating the complaint or taking corrective action with respect to the complaint or required by law;" and
- "All information relating to verbal and written complaints shall be kept strictly confidential."

5. **Where to go for information or help**

This section provides a complete list of sources and contact people, with addresses and phone numbers for those seeking help.

6. **Information for employees who are accused of harassment**

This appendix, "What to do if you are accused of harassment," explains that the policy is based on principles of fairness and due process, and that the focus is on conflict resolution rather than blame or punishment.

It also sets out employees' right to be notified if a complaint is made against them, and the next steps and resources available to them.

7. **Information for employees who witness harassment**

This appendix, "What to do if you observe harassment in the workplace," encourages employees who are aware of incidents of harassment to offer support to colleagues who are experiencing this. It provides information about next steps and resources, and states when co-workers must take action:

- "If you observe any incidents that involve a threat to cause bodily harm, assault, sexual assault or any other risk to the individual, you are obligated to report it to your manager."
- "It is misconduct for managers and supervisors who know of workplace harassment not to take immediate corrective action."

8. **Processes and procedures for addressing harassment in the workplace**

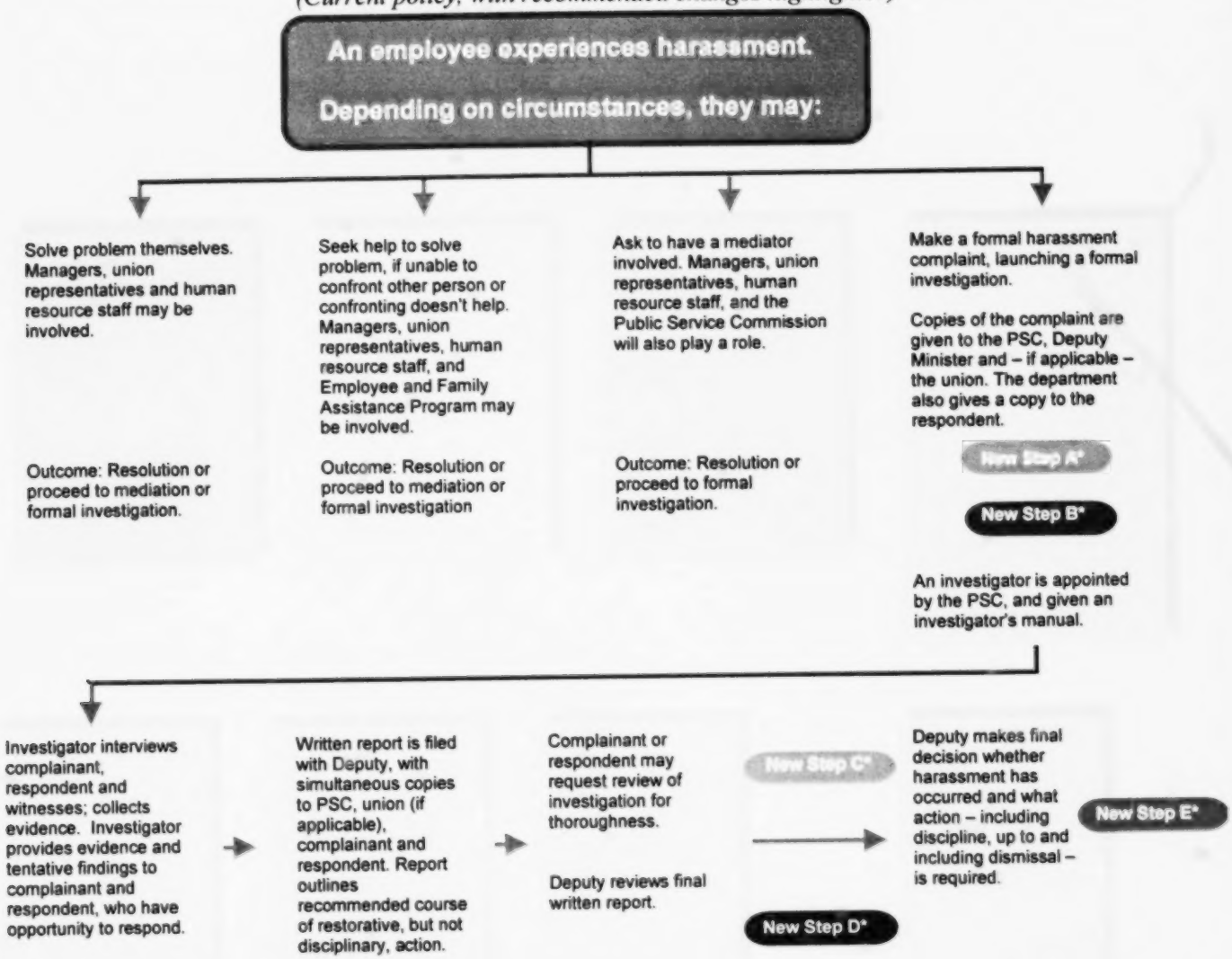
An appendix to the policy provides detailed information, including timelines and explanations of:

- How complaints of harassment may be brought to the attention of the employer;
- Dispute resolution options; and
- The procedure the employer will follow to inform the complainant and the alleged harasser of the results of the investigation.

The current process is summarized on the following page.

Processes and procedures for addressing harassment in the workplace

(Current policy, with recommended changes highlighted)


An employee experiences harassment.
Depending on circumstances, they may:
Solve problem themselves. Managers, union representatives and human resource staff may be involved.
Outcome: Resolution or proceed to mediation or formal investigation.
Seek help to solve problem, if unable to confront other person or confronting doesn't help. Managers, union representatives, human resource staff, and Employee and Family Assistance Program may be involved.
Outcome: Resolution or proceed to mediation or formal investigation
Ask to have a mediator involved. Managers, union representatives, human resource staff, and the Public Service Commission will also play a role.
Outcome: Resolution or proceed to formal investigation.
Make a formal harassment complaint, launching a formal investigation.
Copies of the complaint are given to the PSC, Deputy Minister and – if applicable – the union. The department also gives a copy to the respondent.
New Step A*
New Step B*
An investigator is appointed by the PSC, and given an investigator's manual.
Investigator interviews complainant, respondent and witnesses; collects evidence. Investigator provides evidence and tentative findings to complainant and respondent, who have opportunity to respond.
Written report is filed with Deputy, with simultaneous copies to PSC, union (if applicable), complainant and respondent. Report outlines recommended course of restorative, but not disciplinary, action.
Complainant or respondent may request review of investigation for thoroughness.
Deputy reviews final written report.
New Step C*
New Step D*
Deputy makes final decision whether harassment has occurred and what action – including discipline, up to and including dismissal – is required.
New Step E*

*New Step A	Deputy refers to new Manager's Checklist now and throughout process.
*New Step B	Managers are instructed when to seek advice as to whether police should be involved.
*New Step C	Deputy consults with complainant to gain further understanding of impact of incident.
*New Step D	Deputy refers to database of harassment cases, and consults with committee of peers.
*New Step E	On a confidential basis, Deputy shares with complainant (and other members of immediate workgroup if deemed necessary) information about any disciplinary action taken.

Other proposed changes include:

The policy statement is strengthened to make clear there is zero tolerance for harassment in the public service;
The policy is strengthened to indicate when dismissal should be considered;
Reconfirms the current practice of informing the departmental Minister and the Minister Responsible for the Public Service Commission, in serious harassment cases;
PSC reports to Minister Responsible for the Public Service Commission semi-annually on serious cases of harassment;
Departments are directed to enhance employee awareness of harassment issues;
A review to improve the investigative process be undertaken.

APPENDIX 3

Side-By-Side Presentation
Anti-Harassment Policy Review Recommendations

CURRENT	RECOMMENDED	EXPLANATION
1. Clarify government's "zero tolerance policy" towards harassment in the workplace.		
While the intent of the current policy is to provide a harassment-free workplace, it makes no reference to "zero tolerance".	Strengthen the policy statement in the Anti-Harassment Policy to make it clear there is zero tolerance for harassment in the public service workplace. Add a new first paragraph to the policy statement as follows: "The government has a zero tolerance policy towards harassment in the workplace. No reported incident of harassment will go unaddressed. Allegations of harassment will be taken most seriously and, if substantiated, will be addressed through appropriate corrective action which reinforces the policy and ensures the harassment does not continue."	Clarifies government's commitment to a zero tolerance policy. Does not mean that dismissal will be imposed in all cases of violation of the policy, but rather that no reported incident of harassment will go unaddressed.
2. Examine how the process for dealing with harassment issues might be modified to allow the Minister(s) sufficient oversight so as to ensure the policy is working properly. ***a) How can the decision process for discipline in the most serious harassment cases be strengthened? What are the appropriate roles for Ministers and Permanent Heads?***		
The current policy and the Public Service Act provide that it is the responsibility of the Permanent Head to determine and impose appropriate discipline up to and including dismissal.	Disciplinary decisions respecting all matters, including the most serious cases of harassment, remain the responsibility of the Permanent Head. In making the decision to discipline or dismiss an employee, in the most serious cases of harassment, the Permanent Head will seek the input of a panel of peers. The Permanent Head will prepare a thorough written report on the case including the investigator's report, all opinions and advice received, interviews conducted, additional information considered, precedents used, etc. This report would be used when consulting with the panel and may be used in informing the Minister responsible.	No change in roles. Retain appropriate separation of roles between the professional public service responsible for administrative and personnel matters and that of elected officials responsible for representing the public interest in setting policy direction for government. Maintains individual accountability of the Deputy Minister. Provides additional input and advice to the Deputy in making the disciplinary decision. Process strengthened by the requirement for a complete written report to be used in reaching the disciplinary decision.

CURRENT	RECOMMENDED	EXPLANATION
	The Public Service Commission finalize their work on the automation of case records to provide Permanent Heads easier access to information about public service cases with similar circumstances including the sanctions imposed. A manager's checklist be developed to assist in dealing with harassment issues. The checklist would identify key actions/considerations at all stages throughout the process beginning with the first indication/allegations of harassment and carrying through to the disposition of any disciplinary challenges and necessary restorative processes in the affected workplace.	To improve consistency in determining disciplinary sanctions. Checklist will assist in reminding managers of the various considerations throughout the process of dealing with harassment issues. Will include such things as consultation with complainant(s), seeking Justice advice regarding whether the police should be contacted, use of government property during suspension, etc.
b) Should the disciplinary process respecting serious harassment cases require the briefing of the departmental Minister; and if so, when and in what level of detail?		
Departmental Ministers are to be kept informed of significant employment issues in their departments.	Confirm that the Minister will be informed of significant employment issues; eg., serious harassment cases. In the most serious harassment cases, the Minister Responsible for the Public Service Commission will also be briefed.	No change. In keeping with Minister's general responsibility for oversight of departmental activities.
c) Are there other means of reporting to the Minister Responsible for the Public Service Commission regarding experience in the application of the Anti-Harassment Policy that would assist in ensuring the policy is working properly?		
	The Public Service Commission prepare periodic reports for their Minister respecting the administration of this policy, including such information as the number and nature of harassment complaints filed, gender or other analysis where appropriate, how complaints were addressed, whether harassment was found and discipline imposed	Provides the Minister Responsible for the PSC with improved oversight as to whether the policy is being applied in a manner consistent with government's commitment to zero tolerance.
3. *Determine if the guidelines for applying discipline, in the most serious cases of harassment, are sufficiently clear and strong.*		
If it is determined that harassment has occurred, the offending party may be subject to disciplinary action, up to and including dismissal, in accordance with the Corrective Discipline Policy.	The Anti-Harassment and Corrective Discipline Policies be amended to reflect that, in the most serious cases of harassment, dismissal will be the employer's response in the absence of significant factors that, in the opinion of the Permanent Head, dictate otherwise; eg., cases involving: serious abuse of authority; hate literature, sexual assault, or other criminal behaviour associated with harassment.	Will assist decision-makers in the application of judgement in determining appropriate discipline in the most serious harassment cases. Reinforces the seriousness with which government views significant breaches of this policy.
4. Examine the balance between protecting the privacy of individuals and disclosing disciplinary action taken with a view to increasing transparency and accountability. ***a) Should complainant(s) know what disciplinary action has been taken as a result of their complaints?***		
Strict confidentiality requirements respecting harassment processes are set out in the Occupational Health and Safety Regulations and the current Public Service Anti-Harassment Policy. These requirements are intended to protect the rights of all parties involved and to foster a work environment free of harassment in which all employees feel comfortable in coming forward and addressing concerns.	The anti-harassment process and procedures be modified such that in cases where, as a result of an investigation, the investigator has concluded that harassment has occurred: ➢ the Permanent Head, in his/her deliberations respecting appropriate disciplinary and restorative action to be taken, may consult with the complainant(s) to bring a fuller understanding of the impact of the respondent's behaviour on the complainant(s) and the workplace;	Allows the complainant a greater degree of involvement in the process. Additional information gathered may assist the Permanent Head in determining appropriate discipline or other remedial action. Will be included in new checklist.

CURRENT	RECOMMENDED	EXPLANATION
	➢ the Permanent Head shall share with the complainant(s), on a confidential basis, the disciplinary penalty ultimately imposed on the respondent, relevant considerations and rationale for the decision; and ➢ the Permanent Head may share, on a confidential basis with other members of the immediate workplace, information respecting the nature of disciplinary action taken.	Allows complainant a better understanding that there has been a reasoned consequence as a result of the finding of harassment. May assist complainant(s) in achieving sense on closure. May be helpful in the restoration process in assisting the workplace to return to normal operations.
b) Are there instances where the public interest in disclosing disciplinary action (other than termination) overrides an individual's right to privacy?		
The Freedom of Information and Protection of Privacy Act defines one's employment record as personal information which must not be publicly disclosed without the consent of the person. It is the interpretation of this legislation that discipline is part of one's employment record; and therefore, is protected under the provision.	A decision on the issue of public disclosure of disciplinary action taken, in the most serious cases of harassment, be deferred pending the completion of a more thorough analysis of the implications of this type of change.	A decision to permit public disclosure would require regulation changes (perhaps both FOI and OH&S) and will impact on the expectations of privacy for government employees. To strike a proper balance between privacy and public disclosure, due consideration must be given to many competing interests involved. Further consideration should be given to the approaches used in other jurisdictions (preliminary analysis suggests all other jurisdictions prohibit public disclosure).
5. Examine the policy to ensure it appropriately addresses the obligation of all employees to maintain a harassment-free workplace.		
The policy is clear about the importance of a harassment-free workplace and the role all employees share in maintaining a culture of respectfulness.	Departments be directed to enhance employee awareness of harassment/respectfulness issues through, eg., regular reminders in employee orientation sessions, staff meetings, probationary and other performance review discussions and periodic circulation of relevant topical materials. PSC develop additional support materials to assist departments in communicating the Anti-Harassment Policy to employees, coincident with the implementation of changes that result from this review. Departments include this initiative as part of their annual human resource plans.	Improve culture of respectfulness in the workplace by ensuring that all employees remain sensitive to these issues and their obligations on a day-to-day basis.

CURRENT	RECOMMENDED	EXPLANATION
6. Determine circumstances in which investigations should be turned over to the police.		
The current policy identifies that employees experiencing harassment may go to the police for information or help, if an assault or other crime has allegedly occurred.	The anti-harassment procedures be amended to be instructive to supervisors/managers such that: If they are made aware of a serious harassment circumstance which they believe may have involved criminal behaviour that they seek advice of Saskatchewan Justice as to whether the matter has crossed the line into criminal action. At any time in the process of handling such a complaint, and particularly if the matter is investigated and substantiated, the complainant(s) must be advised that he/she has the opportunity to advance a criminal complaint and offered the employer's support to do so. If the employee does not wish to do so, those wishes should be respected except where there is an overriding concern. Managers who believe a particular matter should be raised with the police, despite the complainant(s)' wishes, must first raise this matter with Saskatchewan Justice.	Instructs managers to be more proactive in seeking further advice if they believe criminal action is involved, and in advising/supporting complainant(s) in advancing criminal complaints in such cases, if they wish to do so.
7. Other issues as determined appropriate.		
The PS/GE collective agreement requires that, for harassment cases involving in-scope employees, investigators must be jointly agreed. The current policy outlines the basic steps of the investigative process. More detailed instructions are set out in the Investigator's Manual.	a) Investigative Process That the Public Service Commission review (jointly with the SGEU, as necessary) means to improve the investigative process including: • the maintenance of a pool of skilled and trained investigators available to promptly conduct thorough and confidential investigations into complex harassment issues; • the established guidelines for investigator's actions; • the expectations for comprehensive reports with detail on the specifics of the findings (including which complaints were founded and which were not); and • the process for the investigator to alert the employer where the investigation suggests police involvement may be appropriate. b) Regular Reviews of the Anti-Harassment Policy As the law and best practices surrounding harassment are evolutionary, periodic reviews of the policy (not less than every five years) should be conducted to ensure that the policy remains current, valid and meaningful.	Although not identified as one of the elements of the policy to be reviewed as set out in the terms of reference, the Review Team identified a number of concerns related to the investigative process which we believe require further review and analysis. To ensure policy and related processes remain current.